Supreme Court, U.S.
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~~No. 02-1192~~

In the Supreme Court of the United States

Nos. 96-SP-817, 97-SP-1629, 97-SP-1760
99-SP-1025, 99-SP-1192

IN RE: SIMON BANKS
Petitioner

ON PETITION FOR WRIT OF CERTIOARI TO
THE DISTRICT OF COLUMBIA CIRCUIT

FROM THE DISTRICT OF COLUMBIA COURT
OF APPEALS

Respectfully submitted,

Dr. Simon Banks, J.D.
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[703] 703 845-9630

193 pp

QUESTIONS PRESENTED

Whether state courts may enforce its unauthorized practice rules against the general public and unlicensed federal practitioners, in the absence of a statute enabling it to do so, when its publication of such rules is restricted to licensed members of the bar.

Whether state court unauthorized practice rules, in the absence of a statute or law, may be referred to as a law and enforced against unlicensed federal practitioners, without violating the Due Process Clause and Sperry v. State of Florida.

Whether the highest state court of a state may regulate federal practitioners indirectly through setting conditions on practice, formulating pretextual smokescreens, such as the issuance of selective prior restraint on speech and/or through state regulatory agencies by reclassifying federal practitioners as "merchants" and their services as other than legal services.

Does *Butz v Economu.* 438 U.S. 478 (1978) which refers to the titles "Hearing Examiner" as interchangeable with "Administrative Law Judge" also apply to State Hearing Examiners performing like and similar functions, whether or not they are licensed to practice law.

Whether a state court that awards attorney's fees to its attorneys acting as judicial officers in prosecuting unauthorized practice rules, engage in conflict of interest and/or the appearance of impropriety, in contravention of judicial ethics laws

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The Petitioner filed his Petition on November 26, 2002 and was returned stamped dated November 30, 2002, providing 60 days to file corrected Petition. On February 4, 2003, the Petitioner was granted 60 days to perfect his petition.

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Memorandum Opinion And Judgment, No. 87-97,
In Re Simon Banks [May 26, 1987]

JURISDICTIONAL STATEMENT

The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1), the Petitioner is appealing from a final order of the District of Columbia Court of Appeals. The Order of the District of Columbia Court of Appeals, is arbitrary and unconstitutionally has subjected the Petitioner to its Unauthorized Practice Rule without jurisdictional authority, for some 17 years, in violation of the Due Process and Equal Protection Clauses of the Fourteenth Amendment.

This is an appeal from an order dated August 29, 2002, upholding the decisions of Judge Richard A. Levie, a Superior Court Judge who has held the Petitioner in civil and criminal contempt, based upon the alleged jurisdiction that DCCA conferred upon itself, pursuant to its Rule, DC Ct. App. R. 49, in the absence of a statute. While the District of Columbia Court of Appeals [hereinafter "DCCA"] charged the Petitioner with "unlicensed practice of law," **there is no "unlicensed practice law" in the District of Columbia.** In 2002 the DCCA and its attorneys attempted to enact an unlicensed practice law. A95-97.
At all times relevant, the DC Ct. App. R. 49 did not contain any exceptions for federal practitioners. See A154. "Commentary to Rule 49©(5). See also, Exceptions to Rule 49 at A150-151.

This appeal arises out of an injunction that was initially issued by the District of Columbia Court of Appeals, **from a proceeding that originated in the District of Columbia Court of Appeals**. In 1992 the DCCA arbitrarily, in the absence of any established rules, appointed Superior Court Judge Levie to sit as an appeals judge and convene disciplinary proceedings to enforce an injunction against Petitioner that DCCA issued for alleged violation of **DC. App. R. 49 [which DCCA refers to as a law]** This 1987 injunction retroactively enjoined the Petitioner, in connection with his authorized unlicensed practice, from advertising his experience as a "judge", "trial advocate", and former title acquired in 1975, and certification acquired in 1980 of "Administrative Law Judge and Hearing Examiner," until Petitioner becomes a licensed member of the DC Bar. The DCCA further enjoined the Petitioner from **indicating** that he was a former judge and that he is the functional equivalent of a lawyer, or otherwise **indicate** that he is qualified to practice law, [See A51] and from indicating that he is qualified to practice law, until he becomes a licensed member of the bar. **See A50, A59, See also A127, A149-150.** These restrictions are not narrowly tailored and they violate the Petitioner's rights as a federal practitioner, as a former hearing examiner and administrative law judge, and operate as a regulatory taking.

There exist a question between the states of whether Butz v Economu. 438 U.S. 478 (1978) which refers to the titles "Hearing Examiner" as interchangeable with "Administrative Law Judge" also apply to State Hearing Examiners performing the same duties and functions, whether or not they are licensed to practice law?

There is further disparity between the states courts with respect to the title "Hearing Examiner" and Administrative Law Judge", whether Hearing Examiners performing the same and like judicial functions are Administrative Law Judges and are entitled to use and be conferred upon them the title and classification of "Administrative Law Judge", and "judge" whether or not they are licensed members of the Bar.

The District of Columbia Government, pursuant to the direction of DC Appeals Judge John Ferren, while on temporary leave from the court, facilitated the promulgation of the change in title of "Hearing Examiner" to "Administrative Law Judge" for Worker's Compensation Hearing Examiners. **See** A146-147. Moreover, the District of Columbia Consumer and Regulatory Affairs, changed the title "Hearing Examiner" to "Administrative Law Judge" for its "Hearing Examiners" on January 20, 1995. **See** A145.

The District of Columbia Government certified Petitioner as an "Administrative Law Judge" and "Hearing Examiner" in 1980, and in 1987 the DCCA enjoined Petitioner from using the title until he becomes a licensed member of the bar. See A59.

The primary question here is whether a the highest court of a state can use its rules which publication is restricted to licensed members of the Bar, as a substitute for a statute or law, to regulate the general public, unlicensed federal practitioners, in the absence of a statute, without violating the notice requirements of the Due Process Clause of the Fourteenth Amendment -- and in the case of the District of Columbia, without violating the plenary powers of the United States Congress. Art. 1, §8, cl 17. There exist disagreement between the highest state courts on this question.

There is further disagreement between the states whether the highest state court of a state may regulate federal practitioners indirectly through setting conditions on practice, formulating pretextual smokescreens, such as the issuance of selective prior restraint on speech and/or through state regulatory agencies by reclassifying federal practitioners as "merchants" and their services as other than legal services. **See *Banks v. D.C. Dept. of Consumer and Regulatory Affairs, 634 A.2d 433*** **(D.C. 1993). See also, Supreme Court No. 93-2002 [5/2/94].**

Because DCCA from 1985 to 2002, has been jointly engaged in retroactive and prospective rulemaking with its lawyers

assigned to prosecute Petitioner, **See** A155, to embellish Rule 49 and to protect and promote the monopoly of the District of Columbia Bar, which it supervise, it has been unwilling to provide the Petitioner with a fair trial or to dissolve the injunction(s) notwithstanding the fact that DCCA fabricated its jurisdiction over the Petitioner, the Petitioner's federal practice, and by thereafter issued injunctions based upon the sham jurisdiction that DCCA conferred upon itself pursuant to DC App. Rule 49. DCCA repeatedly denied Petitioner's motions to determine the constitutionality of Rule 49, and motions Declaratory Judgment, and motions to vacate the injunction, even after it amended Rule 49 to provide for exceptions for federal practice by federal practitioners. See A137

The DCCA, from 1987 through the present, interpreted Rule 49 as if it were a statute, as not providing the court with jurisdiction over practice before administrative agencies when applied to Kentucky attorney Benoit Brookens, and the Bellingers,[1] and to the contrary, conferring jurisdiction upon the Court and the District of Columbia Consumer and Regulatory Affairs, with respect to its application and interpretation of Rule 49 when applied to the Petitioner.[2] The DCCA's inconsistent interpretation of its own Rule, Rule 49, has on a sustained and continuous basis deprived the Petitioner of equal protection of the laws. The Court held in *Bush v. Gore,* slip op. No. 00949, 531 U.S. at 6 (2000), "Equal protection applies as well to the manner of its exercise. Having once granted the right....on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's ...(rights)...over that of another." Clearly, the lack of practice rules, rules of interpretation, and guidelines to govern DCCA's enforcement of Rule 49, has led to unequal evaluation. "The formulation of uniform rules to determine intent based on these recurring circumstances is practicable and, we conclude necessary. *Ibid.* at 7. **See** *Gore v. Harris, __So. 2d__ (slip op at 51)(citing from Bush v. Gore, slip op. No. 00-949, 531 U.S. at 6 (2000).*

The DCCA, from 1985 to the present, deprived the

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[1] *Brookens v. District of Columbia Court of Appeals,* 538 A.2d 1120, *Simon v. Bellinger,* 643 F.2d 774 (1980), *Sperry v. State of Florida,* 373 U.S. 379 [1963]

[2] *In Re Banks,* 561 A.2d 158 (D.C.App. 1987) Memorandum and Opinion; Order 18, 92-BG-652 (Jan. 13, 1995), *Banks v. Consumer and Regulatory Affairs,* 634 A.2d 433 (D.C. App. 1993] *Banks v Consumer and Regulatory Affairs,* slip Op. 91-AA-883 [Nov. 6, 1993]

Petitioner of the collateral estoppel based upon stare decisis and res judicata effect that the Petitioner is entitled to based upon DCCA's own precedents and the precedents that it has acknowledged in other disciplinary type cases, connected with its enforcement of its Rule 49 and its predecessor Rules. **See** D.C. Cir. R. 36(a), D.C. Cir. R. 28(c). ***Stare decisis*** should ordinarily preclude the DCCA from relitigating the issue with a different party in an inconsistent manner. The Supreme Court has held that "collateral estoppel applies so long as the judgment in the first suit still remains unmodified." *Southern Pac. R.R. Co. v. United States,* 168 U.S. 1, 49 (1897).

DCCA's inconsistent interpretation and application of Rule 49 against the Petitioner, is not credible and violates the Petitioner's due process rights and right to equal protection. **See** *Board of Regents v. Roth,* 408 U.S. 564 (1962), *Fuentes v. Shevin,* 407 U.S. 167 (1972), *Perry v. Sinderman,* 408 U.S. 593 (1972).

DCCA cannot regulate the citizens of the District of Columbia in the absence of an enabling statute, nor can it enforce Rule 49 as if it were a law without violating the plenary powers of Congress. Article 1§8, cl. 17.[3]

The Supreme Court of Florida held in *Bush v. Gore,* slip Op. No. SC00-2431 [Dec. 8, 2000] at 88: "...Related statutory provisions must be read as a cohesive whole. (citing *Sun Ins. Offic3e, Ltd v. Clay,* 133 So. 2d 735 (Fla. 1961) 'as stated in *Forysthe v. Longboat Key Beach Erosion Control Dist.,* 604 So. 2d 452, 455 (Fla 1992))...'a statutory provision will not be construed in such a way that it renders meaningless or absurd any other statutory provision.'" **See** *Amente v. Newman,* 653 So. 2d, *United States v. John C. Grimberg Co.,* 702 F.2d 1362, 1366 (Fed. Cir. 1983).

As the Supreme Court pointed out in *Bush v. Gore, Id. At 6 [Stevens J. dissenting],* "it is emphatically the province and duty of the judicial department to say what the law is." (citing Marbury Madison, 1 Cranch 137, 177 (1803)....."Like any other judicial interpretation of a statute, its opinion was an authoritative interpretation of what the statute's relevant provisions have meant since they were enacted. *Rivers v. Roadway Express, Inc.* 511 U.S. 298, 312-313 (1994). Id. At 6. **[Granted that Rule 49 is not a**

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[3] *Gibbons v. District of Columbia,* 116 U.S. 404, 407 (1886), *Neild v. District of Columbia,* 11 F.2d 246, 251 (D.C. Cir. 1940).

statute, however] – although DCCA treated it as if it were a statute when applied to the general citizenry.

D.C. Ct. App. R. 46 II (b)(1), predecessor to Rule 49. The Rule provides specific details regarding the import of the phrase 'practice law,' See Id. R. 46 (b)(2) & (3), and it also excludes from its scope attorneys who are 'participating…before any court of the United States' or 'before any department, commission or agency of the United States." *Id.* R. 46 II (b)(6) & 7.

The DCCA, in its opinion an Order of August 29, 2002, upheld Judge Levie's interpretation of Rule 49©(4) as being applicable to Petitioner, notwithstanding the fact that it applies to license attorneys and its publication has been to licensed attorneys. Judge Levie in Order 18 at 47, states that the court was withdrawing the privilege it granted to Petitioner pursuant to Rule 49©(4), a breathtaking departure from *Brookens v. District of Columbia Court of Appeals,* 538 A.2d 1120.[4] Moreover, this flies in the face of the exceptions that DCCA promulgated pursuant to amended Rule 49, Order M-198-96. **See Exceptions to Rule 49.** A148, A150-153, A154, A

This is a case where the Supreme Court is mandated to reject, as it has rejected outright and interpretation of state law by a

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[4] Although Rule 49©(4) specifically applies to attorneys, Judge Levie provide at 47¶3, Order 18:

> (4) Nothing herein shall prohibit any ***attorney*** from practicing before any department, commission, or agency of the United States to the extent that such practice is authorized by any rule or regulation of any such department, commission or agency, provided the person is not otherwise regularly engaged in the practice of law in the District of Columbia or is not in any manner, 3xcept as permitted by the license granted by such department, commission or agency, holding out as authorized or qualified to practice law in the District of Columbia without having become an enrolled active member of the Bar of this court.

D.C. App. R 49©(4)(Emphasis Added). Respondent continually has flouted the express limitation of the exception in that he has held himself out as authorized to practice law in the District of Columbia. Accordingly, with regard to practice before federal agencies, it is appropriate, in order to assure compliance with Rule 49 and this Order, ***to withdraw Respondent's privilege of using this exception as the basis to appear before federal agency. 32/***

state high court, that is clearly wrong, as it has in *Fairfax's Devisee v. Hunger's Lessee,* 7 Cranch 603 (1913), *NAACP v. Alabama ex rel. Patterson,* 357 U.S. 449 (1958), and *Bouie v. City of Columbia,* 378 U.S. 347 (1964).

Order 18, 92-BG-652, In Re Banks, [Jan. 13, 1995], enjoining petitioner from stating that he provides nationwide service, [**See A48, A58**] is an unconstitutional infringement upon Petitioner's rights pursuant to the Interstate Commerce Clause, the Commerce Clause. As the Court opined in *Milton S. Kronheim & Company,* slip op. No. 95-7053, 95-7168 (D.C. Cir. Oct. 10, 1995).[5]

The DCCA, the United States Attorney for the District of Columbia and the DCCA's Committee, CUPL, lack standing pursuant to Rule 49 to prosecute Rule 49 against Petitioner. **See** *Dellums v. NRC Com'n,* 863 F.2d 968 (D.C. Cir. 1988). Its appointment was an abuse of discretion.

This August 29, 2002 Order of the DCCA upholds the selective speech restrictions that the DCCA arbitrarily, capriciously and selectively subjected the appellant to from 1985 to the present. In 1987, while exercising its equitable powers, the DCCA, sitting through one of its Judges, the Honorable Judge Gallagher, arbitrarily delegated the jurisdictional authority to convene a disciplinary proceedings against petitioner, without any established hearing rules or guidelines, issued two injunctions based upon implied-inferred speech restrictions that the DCCA opined were implied and inferred in District of Columbia Court of Appeals Rule 49(b) [D.C. App. R. 49(b) [hereinafter "Rule 49"] and that the implication mandated that DCCA exempt all attorneys practicing before administrative agencies of the District of Columbia and of the United States from these implied-inferred speech restrictions.

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[5] "The first step in analyzing whether a state law unjustifiably discriminates or burdens interstate commerce under the 'negative' commerce clause is to determine whether it 'regulates evenhandedly with only 'incidental' effects on interstate commerce, or discriminates against interstate commerce." *Hughes v. Oklahoma,* 441 U.S. 332, 336 (1979)]...if a restriction on commerce is discriminatory, it is virtually per se invalid. By contrast, nondiscriminatory regulations that have only incidental effects on interstate commerce are valid unless "the burden imposed on such commerce is clearly excessive in relation to the putative local benefits."

When the Petitioner produced disclosure statements for each client in In Re Simon Banks, supra___, (1989) DCCA ruled that the Petitioner's statement that he is a Former Administrative Law Judge, nullified the disclosure statements, because the lay public believes that all judges are licensed members of the bar – notwithstanding the fact that the court made this broad speculation and conclusive presumption without any statistics or statistical study.

The Court held Petitioner in criminal contempt of Rule 49, for violating the travel restrictions that the DCCA placed upon the Petitioner, enjoining the Petitioner from indicating or stating that he provides nationwide service. See also, Order 18, 92-BG-652.

It is without dispute that at all times relevant, petitioner primary representation of clients were before administrative agencies of the United States, located in the District of Columbia. Petitioner limits his representation to administrative agencies that do not require a Bar license.

It is without dispute that petitioner held the federally funded position of Hearing Examiner with the District of Columbia Human Rights Commission, in 1975 through 1976, and with the District of Columbia Rental Accommodation Office of the DC Rental Housing Commission 1977 through 1978, prior to the D.C. Home Rule Act, when and while District of Columbia Employees enjoyed federal civil service rights.

The first injunction DCCA issued against petitioner, pursuant to pursuant to Rule 49 (b), at the request of DCCA's Committee On Unauthorized Practice of Law, [hereinafter "Committee" and/or "CUPL"], retroactively stripped the petitioner from using his title "Administrative Law Judge" "Hearing Examiner", [6] It further enjoined the petitioner from practicing before administrative agencies administrative agencies although the administrative agencies the petitioner practiced before do not require a license to practice law. See Memorandum Opinion And Judgment, No. 87-97, In Re Simon Banks [May 26, 1987], 561 A.2d 158 (1987). See A62-A64, A64-A80.

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[6] Which inferred that petitioner is (1) holding out as authorized to practice law, (2) giving the public the impression that he is authorized to practice law in the District of Columbia, in violation of D.C. App. R. 49

It is without dispute that Rule 49, at all times relevant, was never published to the general public in accordance with the District of Columbia Documents Act, §3©, D.C. Law 2-153, D.C. Code §1-1612(3)and that the DCCA and the District of Columbia Mandatory Bar which DCCA supervises, restricted the Publication of Rule 49 to licensed attorneys. **See A61.**

It is without dispute that Rule 49(b), Rule 49(c)(4), and Rule 49 per se, never legitimately or constitutionally conferred jurisdiction upon the DCCA to regulate authorized practice of unlicensed practitioners such as the petitioner before administrative agencies of the District of Columbia or of the United States. See *Sperry v. State of Florida*, 373 U.S. 379 (1963).[7] See A137, A139, and A154. See *Brookens, supra.*

It is without dispute that DCCA, in 1987, seized jurisdiction over petitioner based upon petitioner's protected speech, pursuant to the implied speech restrictions that DCCA inferred were implied in Rule 49, and thereafter fashioned an expanded injunction that DCCA has sustained against the petitioner pursuant to D.C. App. R. 49(b)(1), 49(b)(2) See Order 18, 92-BG-652, Jan. 13, 1995, at 60-62 to the present. See In re Banks, 561 A.2d 158 (1987). See A154 Commentary on Rule 49.

It is without dispute that DCCA through Rule 49(b)(1) and Rule 49 (b)(3) have conclusively declared that the conduct of the Petitioner of engaging in authorized practice before administrative agencies of the District of Columbia and of the United States,

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[7]. "The power to judicially create and enforce "rules of procedure and evidence for the federal courts (and the District of Columbia Courts) exists only in the absence of a relevant Act of Congress." *Palermo v. United States, 360 U.S. 343, 353, n. 11 (1959)(citing Funk v. United States, 290 .U.S. 371, 382 (1933) and Gordon v. United States, 344 U.S. 414, 418 (1953)).* **Congress retains** the ultimate authority to modify or set aside any judicially created rules of evidence and procedure that are not required by the Constitution. *Palermo, supra, at 345-348; Carlisle, supra, at 426; Vance v. Terrazas, 444 U.S. 252. (citing from Dickerson v. United States, slip op. No. 99-5525, at 1 (U.S. Ct. App. 4th Cir. June 26, 2000).*

involving matters of law, as "unauthorized practice of law." This interpretation is unconstitutional, arbitrary and an abuse of discretion, and in contravention to D.C. Ct. App. R. 46, the precursor to Rule 49.[8]

It is without dispute that DCCA has published to the general public from 1987 to the present, that petitioner's authorized practice before administrative agencies of the United States, and administrative agencies of the District of Columbia, constitute "unauthorized practice of law." See Amended Rule 49, effective February 1, 1998 at A151.

It is without dispute that DCCA has by conclusive presumption, determined, pursuant to Rule 49(b)(2), that petitioner's advertisements advertising that the titles "Hearing Examiner" and "Administrative Law Judge" and Petitioner's offering to provide legal services before administrative agencies, constitute "unlicensed practice of law". See Order 18, at 60.

Pursuant to Rule 49, DCCA enjoined the Petitioner from using the titles "administrative advocate", "administrative trial advocate" or any other term or description which 'reasonably denotes that Petitioner is licensed to practice law in the District of Columbia.'" See Order 18 at 60, ¶(2).

To further burden the Petitioner's ability to compete in the marketplace against licensed members of the bar, DCCA expanded its injunction, at 61 of Order 18, requiring the Petitioner to include

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[8]. "The power to judicially create and enforce "rules of procedure and evidence for the federal courts (and the District of Columbia Courts) exists only in the absence of a relevant Act of Congress." *Palermo v. United States, 360 U.S. 343, 353, n. 11 (1959)(citing Funk v. United States, 290 .U.S. 371, 382 (1933) and Gordon v. United States, 344 U.S. 414, 418 (1953)).* **Congress retains** the ultimate authority to modify or set aside any judicially created rules of evidence and procedure that are not required by the Constitution. *Palermo, supra, at 345-348; Carlisle, supra, at 426; Vance v. Terrazas, 444 U.S. 252. (citing from Dickerson v. United States, slip op. No. 99-5525, at 1 (U.S. Ct. App. 4th Cir. June 26, 2000).*

on all stationary, business cards, print and mass media, the following, in capital letters, bold type and underscored.

THIS IS TO ADVISE THAT SIMON BANKS, AND SIMON BANKS T/A JOB PROTECTORS, IS NOT ADMITTED, AND HAS NEVER BEEN ADMITTED TO PRACTICE LAW IN THE DISTRICT OF COLUMBIA, OR ANY OTHER JURISDICTION. HE IS NOT AUTHORIZED TO REPRESENT ANY PERSON OR ENTITY BEFORE ANY COURT IN THE DISTRICT OF COLUMBIA. HE IS NOT AUTHORIZED TO GIVE OPINIONS CONCERNING ANY PERSON'S LEGAL RIGHTS

For purposes of further burdening the Petitioner's speech, DCCA at 61 of Order 18 provides:

> This statement shall be printed, in all instances, in bold-face, underscored, in all capital letters. It shall be printed at the beginning of all documents not signed by customers in a separate paragraph in typeface no smaller than the largest typeface of the remainder of the document. With respect to each document that a customer signs, this statement shall appear at the beginning, in a separate paragraph, in typeface no smaller than the largest typeface of the remainder of the document; and the customer shall initial each line and then sign immediately below the statement indicating the actual date of execution.

The expanded injunction operate to strip the petitioner from his competitive advantage in advertising his titles former Hearing Examiner and Administrative Law Judge, and that enjoined the petitioner from indicating that the titles "Hearing Examiner" and "Administrative Law Judge" are interchangeable.

The court abused its discretion when it upheld the attorney fee award to Stuart Pierson, its employee, as a reward for prosecuting petitioner, notwithstanding the fact that Petitioner had filed complaint with the DCCA that alleged that Stuart Pierson bribed witnesses, misused the DCCA's stationery to tamper with witnesses and committed subornation of perjury, and tortuously interfered with each of Petitioner's contracts from 1992 through 19965, while engaging in a quid-pro-quo with witnesses. These

exhibits the clerk of court has been unable to locate or provide the petitioner with a copy.

AMENDMENTS TO RULE 49 ACKNOWLEDGED DCCA'S LACK OF JURISDICTION OVER UNLICENSED PRACTITIONERS PRACTICING BEFORE ADMINISTRATIVE AGENCIES

Subsequent to DCCA issuing its 1987 injunction against the petitioner, it, in collusion with CUPL which, at all times relevant, was selectively prosecuting the 1987 injunction, No. 87-97 May 26, 1987 injunction against petitioner and the injunction that DCCA issued in *In Re Simon Banks,* 561 A. 2d 158 (1989), formulated a Committee on Examination of Rule 49 under the auspices of the DC Bar, this Committee[9] amended Rule 49 three times[10], while acknowledging that it does not have jurisdiction pursuant to Rule 49 over authorized unlicensed practitioners whom restricted their practice, such as the petitioner, to administrative agencies and the federal forum. Inconsistently, DCCA cites its lack of jurisdiction pursuant to *Sperry v. State of Florida,* 373 U.S. 379 (1963).

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[9] Members of the D.C. Bar Committee on Examination of Rule 49 included, Jay Resnick Counsel to the CUPL [Committee], D.C. Bar Committee on Rule 49 Chairman, James Schaller, former chairman of the CUPL that prosecuted Rule 49 against the Petitioner that led to *In Re Banks,* 561 A.2d 158 (1987), Stuart Pierson, Chair of the CUPL whom prosecuted Petitioner that led to Order 18, 92-BG-652, Jan. 13, 1995, Richard A. Beverly, Esq. Whom Petitioner filed a previous ethics complaint against, DC Appeals Judge James A. Belson, Linda Hoffman, Esq. Attorney for the Committee who participated in prosecuting Petitioner pursuant to Rule 49 that resulted in Order 18, 92-BG-652

[10] Order No. M-198-96 (Dec. 9, 1997), See Order No. M-212-01, effective April 30, 2002, See Opinion No. 11-02, issued June 10, 2002. DCCA provide at Commentary to § 49(b)(4) that the D.C. Consumer and Regulatory Affairs Agency has authority to sanction the appellant, who's services is deemed as that of a merchant, providing, in part:

> Where a member of the public correctly understands that a person is not admitted to the District of Columbia Bar but is nonetheless offering to perform services functionally equivalent to those performed by a lawyer, that person is subject to sanction under the consumer protection statutes of the District of Columbia. See *Banks v. D.C. Dept. of Consumer and Regulatory Affairs,* 634 A.2d 433 (D.C. 1993). See **D.C. Code § 28-3903 ©((2), 1991.**

The DC Bar Examination Committee On Rule 49 was created in 1993, when DCCA ruled upon and ratified DCRA-CPPA's [Consumer Protection Procedures Act] jurisdiction of the Petitioner's practice based upon DCCA and DCRA declaring the Petitioner's legal services as that of a "merchant". However, when DCCA prosecuted Rule 49 against the Petitioner, it classified the Petitioner's services as that of a lawyer. **See** *Banks v. District of Columbia Consumer and Regulatory Affairs*, 634 A.2d 433 (D.C. App 1993); Simon Banks v. District of Columbia Department of Consumer and Regulatory Affairs, No. 91-AA-883 (Dec. 6, 1993).

The DCCA through its Committee Chair, Stuart Pierson, Chairman of CUPL, authored a letter dated December 8, 1993, urging Roger C. Cooper, a client of Petitioner whom resides in Florida, to file a complaint against Petitioner with the District of Columbia Consumer and Regulatory Affairs Agency, upon the promise of treble damages. This letter contained a list of Petitioner's clients and these clients were on this list with their addresses and the list is described as "Interested Person's List." This group of former clients that Stuart Pierson had coerced to breach their contracts with Petitioner and join the participants of the "Interested Persons' List in bringing a class action complaint against Petitioner.

As the result of Petitioner's discovery of this list, Petitioner filed suit against each member listed along with the law firm, Barrymore & Loots, Esqs., Civil Action No. 94-00985. Stuart Pierson then influence the law firm of Hogan and Hartson, Judge Richard A. Levie's former law firm, to represent the persons contained on the interested person's list. The Petitioner then filed a complaint with the DCCA against Stuart Pierson for Witness Tampering and using the offices of the DCCA and its stationery to carryout these witness tampering actions. The persons listed on the Interested Person's List authored by Stuart Pierson were identified as potential witnesses whom were schedule to testify at the May 8, 1994 hearing that led to the expanded injunction, 92-BG-652, Order No. 18 [Jan. 13, 1995]

THE DCCA HAS BEEN ENGAGED IN LEGISLATIVE ACTIVITIES TO REGULATE AUTHORIZED PRACTICE FROM 1985 TO THE PRESENT

DCCA conspired to delegate to the DC Consumer Protection Agency, jurisdictional powers that it does not have, by upholding the DCRA's reclassification of Petitioner as a

"Merchant" performing services under the UCC pursuant to the District of Columbia Consumer Protection Procedures Act, §28-3901, D.C. Code §28-3901. This inconsistent classification of the Petitioner's legal services was surreptitiously designed to place Petitioner under the jurisdictional authority of the DCRA whom enforce DC Consumer Practice Procedures Act, §28-3901. **See** *Banks v. D.C. Dept. of Consumer and Regulatory Affairs,* 634 A\2d 433 (D.C. 1993).

Notwithstanding DCCA's acknowledgment that it does not have jurisdiction over authorized unlicensed practice before administrative agencies, DCCA delegated jurisdiction to the District of Columbia Consumer and Regulatory Affairs Agency [hereinafter "DCRA"], where it upheld DCRA's classification of the petitioner's legal services as that of a "merchant" for purposes of stripping the petitioner of the exemption provided in the DC Consumer Protection Act that exempted legal services from its jurisdiction. See *Banks v. Consumer & Regulatory Affairs*, 634 A.2d 433 (D.C. App). Two judges wrote strong dissenting opinions citing the lack of evidentiary evidence to support the conclusions reached. See harsh dissent of D.C. Ct. App. Judge Steadman. In this decision, DCCA referred to the DCRA Hearing Examiner Olga Clegg as an "Administrative Law Judge." DCCA upheld the prior restraint speech restrictions set forth in *v. Consumer & Regulatory Affairs*, 634 A.2d 433 [Dec. 6, 1993], slip op. No. 91 AA-883 [Dec. 6, 1993] that prohibited the Petitioner from indicating that he is the functional equivalent of a licensed member of the bar.

It is without dispute that the District of Columbia Government Minority Business Opportunity Commission [MBOC] certified Petitioner as "Administrative Law Judge and Hearing Examiner" February 21, 1980. MBOC Certificate No. 3495. See Appendix.

It is without dispute that the title Hearing Examiner and "Administrative Judge" and "Administrative Law Judge" have been used interchangeably in the District of Columbia by licensed Hearing Examiners and Unlicensed Hearing Examiners. [11] **See also**

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[11] **United States Civil Service Commission changed the title "Hearing Examiner" to Administrative Law Judge in 1972,** by regulation on August 19, 1972, 37 Fed. Reg. 1687, and by statute on March 27, 1978. 5 U.S.C. § 3105.5372. 7521 (Supp. 1V

D.C. Law 13-229, "Workers' Compensation Administrative Law Judges Amendment Act of 2000, changing the title of "Hearing Examiner" to "Administrative Law Judge", effective April 3, 2001. **See A146-147.** This change was promoted and facilitated by DCCA Judge John Ferren, while serving as Vice Chair of the Counsel For Court Excellence. when and while he temporarily stepped down to become D.C. Corporation Counsel, John Ferren facilitated the Office of Administrative Hearings Act, which changed the title "Hearing Examiner" to "Administrative Law Judge" in 2002. Judge Ferren has returned to the DCCA.

DCCA's injunctive orders requiring Petitioner to be licensed to practice law in the District of Columbia as a condition for using the title "Administrative Law Judge" and as a condition for practicing before administrative agencies of the District of Columbia and of the United States that do not require a license to practice law, violates the Equal Protection Clause. See *City of Cleburne v. Cleburne Living Center,* 473 U.S. 432 (19850). Petitioner's representation of clients before administrative agencies of the United States is protected by the Supremacy Clause. **See** *Sperry v. State of Florida,* 373 U.S. 379 (1963).

DCCA 's injunctive orders issued against the Petitioner in on January 13, 1995, 92-BG-652, violate Petitioner's federal constitutional rights pursuant to the Supremacy Clause, Article V1, cl.2. *McCulouch v. Maryland,* 4 Wheat. 316, 427 (1819), *Cipollone v. Liggett Group, Inc.,* 505 U.s. 504, 517 (1992).

DCCA's prior restraint upon Petitioner speech, prohibiting the Petitioner from indicating that the titles "Hearing Examiner" and "Administrative Law Judge" are interchangeable, and prohibiting the Petitioner from advertising the same, is not

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1980) Civil Service Commission Regulation, Aug. 19, 1972 Fed. Reg. 1687. **See** *Butz v. Economou,* 438 U.S., 478, 514 (1978).

See *Black's Law Dictionary, 2nd Ed. at 721-722; Chevron v. U.S.A. Natural Resources Defense Council, 467 U.S. 837 (1984),* further, the United States Merit Systems Protection Board changed the title "Hearing Examiner" in 1980, and that the title of their "Hearing Examiners" to "Administrative Judge", in 1987, and the D.C. Office of Employee Appeals changed the title of their "Hearing Examiners" to "Administrative Judge" on November 12, 1991, although the official title still remains "Hearing Examiner", and the D.C. Consumer & Regulatory Affairs, ["DCRA"] Changed the title of their Hearing Examiners to "Administrative Law Judge" in 1992, and then again on January 20, 1995, thru Rulemaking. See D.C. Register, Vol. 42 No. 3, Pg 397."

supported by any compelling state interest. These prohibitions that burdens Petitioner and Petitioner's class[12] unequally and does not burden the suspect class cannot survive the "rational basis" review which the Court requires to be "rationally related to a legitimate governmental purpose." *City of Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432, 446 (1985). Moreover, DCCA has failed to demonstrate that its injunction will in fact alleviate the anticipated harms it posit, "in a direct and material way. (quoting *Turner Broadcasting Systems, Inc. v. FCC__U.S. at __, 114 S. Ct. at 2470). "And we must 'limit our inquiry to the "interests the state itself asserts,'" Sanjour,* 56 F.3d at 96 (quoting *Edenfield v. Fane,* 507 U.S. 761, 768 (1993).

DCCA's injunctive regulation is governed by the scrutiny outlined in *Florida Bar v. Went For It, Inc.*, 515 U.S. 618, 623 (1995).

DC COURT APPEALS RULE 49 IS UNCONSTITUTIONAL

D.C. App. R. 49 [Rule 49] is unconstitutional on the basis that it is impermissibly vague on its fact, and an arbitrary restriction on personal liberties. **See** *Chicago v. Morales, slip op. No. 97-1121 at 6 [June 10, 1999],* and because it fails to provide notice for parties that it regulates whom are not licensed members of the bar. The notice to this population of regulated must be clear and unambiguous. **See** *General Elec. Co. v. EPA,* 53 F.3rd 1324, 1328-29 (D.C. Cir. 1995), and because it fails to give ordinary citizens adequate notice of what is forbidden and what is permitted; **See** *Coates v. Cincinnati,* 405 U.S. 489, 499, and because it is overly broad and reaches constitutionally protected conduct that is permitted by federal laws. **See** *Wilson v. Yoder,* 406 U.S. 205 (1972); and because it does not provide minimal standards to guide the District of Columbia Court of Appeals' prosecutors, investigators, regulatory police; and judicial offic3ers of the Court. **See** *Kolender v. Lawson,* 461 U.S. at 358; and because it delegates too much discretion to the judiciary, the police, the DCCA's prosecutors and investigators; **See** *Smith v. Goguen,* 415 U.S. 566, 575; and because it pre-empts and undermines federal laws and rights under federal laws in violation of the Supremacy Clause, Art. 6, Cl, 2; **See** *Ham v. City of Rock Hill,* 379 U.S. 306; and because it violates the District of Columbia Publication Act and Administrative Procedures Act for failure to publish in the District of Columbia Register, rules that it enforce

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[12] authorized unlicensed practitioners that practice before administrative agencies that do not require a license to practice law.

against the general citizenry. **See** § 1-1505, § 1-1506*, § 1-1507 of the D.C. Code which requires publication of the District of Columbia Municipal Regulations and Council acts and resolutions, Chap. 15 or 16 of the Code §1532, § 1533. **See** D.C. Law 1-120 "D.C. Register Publication Act of 1976" of Pub. L. 93-198, effective April 19, 1977. (ref. 23, D.C. Register, 5050, Jan. 26, 1977). **See also D.C. Code § 1-1509(d),** which requires that parties be afforded opportunity to file exceptions and present arguments. D.C. Code § 1-262(b), (c). **See** *Mullein v. Central Hanover Bank and Trust Co.,* 33 U.S. 306, 313; *Goldberg v. Kelly,* 397 U.S. 255; and because it promotes, even encourages impermissible restraint on liberty and led to arbitrary enforcement. *Kolender v. Lawson,* 461 U.S. at 357; and because it promotes and has led to acts that have abridged the right to travel and engage in commerce. **See** *Planned Parenthood of Central Mo. V. Danforth,* 428 U.S. 52, 82-83 (1976); *Kent v. Dulles,* 357 U.S. 116, 126 (1958); and because it promotes and has led to impermissible restraint on the liberty of contract, Art. 1§10, Clause 1, and because it abridges the Privileges and Immunities Clause, Article 1V, Cl. 1. **See** *New Hampshire v. Piper,* 470 U.S. 284; and because it impermissibly operate to trespass and encroach upon the executive or legislative authority, in violation of the separation of powers. **See** *Morrison v. Olson,* 487 U.S. 654, 682, 680-681 (1988). **See** *In Re Olson,* 818 F.2d 34, 47 (D.C. Cir. 1987). **See also,** *J.H. Marshall & Assoc., Inc. v. Burleson,* 313 A.2d 587 (D.C. 1973), and because it leads to and has led to enforcement that has violated substantive due process and procedural process. **See** *Board of Regents of State Colleges v. Roth,* 408 U.S. 564, 572-575- (1972); and because it impairs First Amendment right of association. **See** *Dallas v. Stronglin,* 490 U.S. 19, 23-25 (1989); and because it provides for prosecution of conduct after the conduct has already occurred, while it cannot provide the kind of advance notice that will protect a non-licensed authorized administrative practitioner from being subjected to its enforcement sanctions; **See** *Wright v. Georgia,* 375 U.S. 284, 292 (1963); **See also,** *Shuttlesworth v. Birmingham,* 382 U.S. 87, 90 (1965), and because it unconstitutionally promote view point discrimination, prohibited by the Court in *Lamb's Chapel v. Center Moriches Union Free School Dist.,* 508 U.S.__,__, Pp 7-11, and because it impermissibly regulate content of expression

ASSIGNMENTS OF ERRORS:

From 1985 to the present, the DCCA, knew and had reason to know that it never legitimately nor constitutionally acquired jurisdiction over the Petitioner through its Rule 49, simply because

Rule 49 is not a law, published to the general public. It chills protected speech before it happens. *Weaver v. United States Information Agency,, slip. No. 94-5406,* at 27. Notwithstanding Petitioner's clearly established rights that a reasonable person would know.

DCCA erred when it upheld Judge Levie's opinion at 47 of Order 18, 92-BG-652 (Jan. 13, 1995), opining that the Petitioner received his authority to practice before administrative agencies of the United States, from the exemptions existing in Rule 49©(4)

. The Court erred when it upheld Judge Levie's Order, ordering the Petitioner to cease stating that Petitioner provided Nationwide Service, at 1, 5-6, 8, 19-27 and 50 ¶s#(12), (13); and at 60, 62 of Order No. 18, ¶(13),(14).

The Court erred when it failed to investigate Petitioner's complaint and Motion to hold Assistant U.S. Attorney Thomas Zeno in Contempt of Court, filed on September 8, 1999, for forgery, altering official documents, for witness tampering, for making a false statement to a Superior Court Judge, for retaliation and reprisal, et cetera. See Motion to Hold Thomas Zeno in Contempt.

The Court erred and abused its discretion when it summarily disposed of Petitioner's Motions and claims for relief at 3 through 15 of Order #6, Dec. 9, 1993, thereby denied the Petitioner due process of law. See Appendix 1

The Court erred when it failed to investigate Petitioner's Complaint and Motion to hold Stuart Pierson, Chairman of CUPL, in contempt of Court for subornation of perjury, for bribery of witnesses, for witness tampering, for misuse of his official position for private gain, for misuse of the DCCA's stationery to facilitate the quid-pro-quo, et cetera. See Petitioner's Motion to Hold Stuart Pierson in Contempt of Court.

The Court erred when it failed to investigate D.C. Court of Appeals Attorney Rosana Mason, for facilitating the suspension of the Petitioner's appeal for three years, from January/February 1995 through November, 1998, and for tampering with the Petitioner's appeal of 92-BG-652, Order No. 18, issued on January 13, 1995. See Appellant's Motion to Strike and Vacate Chief Judge Wagner's Decision adopting staff attorney Rosana Mason's

response to Appellant's Complaint against Rosana Mason for Ethical Misconduct.

The Court erred when it failed to dismiss the appeal when the Committee abandoned the appeal of these consolidated cases from December 1998 through June, August 2000. Pet Reply to Stuart Pierson's brief.

The Court erred when it reopened the appeal, DCCA's Order dated December 5, 2001, to afford the appellees opportunity to cure waiver and failure to prosecute and abandonment of the case.

The Court erred when it denied the Petitioner transcripts of the proceedings held in this consolidated case after it had afforded Petitioner such right to secure the transcripts on the basis of his forma pauperis status. See Motions of Petitioner to strike the transcripts because he was not provided them prior to being required to submit his consolidated brief, and prior to the Court enjoining Petition from filing any further pleadings, Order dated Feb. 16, 1992.

The Court erred when it arbitrary, and unconstitutionally appointed Eric Holder, U.S. Attorney for the District of Columbia, to selectively enforce Rule 49 against the Petitioner federal rights under federal laws.

The Court erred when it denied the Petitioner the right to trial by jury in proceedings resulting 92-BG-652, Order No. 18, January 13, 1995. See A129-131. Susan Reilly of the EEOC, recipient of Judge Levie's Order No. 18, requesting that federal agencies use his decision of January 13, 1995, to bar the Petitioner from practicing nationwide before federal agencies, notified the Petitioner that she was, pursuant to this order, requesting that Petitioner be barred. See A81-A2. Another reason why Petitioner demanded a trial by jury, that more was at stake than $1000 and six months incarceration. See A61.

The Court erred when it denied the Petitioner's Motion for Jury Trial in the criminal contempt proceedings that arose out of 96-BG-114, and all other criminal proceedings, although it knew and had reason to know that Judge Levie, at 47 of Order 18, January 13, 1995, invited all federal agencies to use his decision to bar the Petitioner nationwide from practicing before administrative agencies of the United States. See Petitioner's Motion for Trial by Jury.

The Court erred when it denied the Petitioner's motion for a clarification of the Probation and Commitment Order, and when it issued Order H, which was based upon Order No. 18, 92-BG-652, entered in 96-BG-114, SP1038 and Orders No. 00-SP-815. See Petitioner's Motion for a More Definite Statement and to Stay Order H. See A134, A135-A136

The Court erred, abused its discretion, and acted arbitrarily, when it upheld Judge Levie's summary dismissal of Petitioner's Motions at 47-48 of Order No. 18, 92-BG-652.

The Court erred when it enjoined the Petitioner from stating that he provides nationwide service, on the basis that this Order interfered with Petitioner's rights pursuant to the Commerce Clause, and Petitioner's free Speech. See Order No. 18, 92-BG-652 (Jan. 13, 1995).

The Court erred when it denied Petitioner bond at the conclusion of the criminal contempt proceedings of 1996, when Judge Levie declared the Petitioner a threat to the community and a menace to society, although Petitioner had no criminal record.

The Court erred when it denied Petitioner's motions to recuse the Court. See Petitioner's Motion to Recuse. A135. The Court erred when it held the Petitioner without bond, pending appeal, on the basis that the Petitioner posed a threat to the community. See A131.

The Court erred when it issued the February 16, 2001 order, prohibiting the Petitioner from filing any further proceedings in court, after it had received for filing Petitioner's Motion to Recuse the Court and to hire a disinterested designee.

The Court erred when it returned the filing of the Petitioner's 189 Exhibits and Appendices to Petitioner's Amended Consolidated Brief, pursuant to its February 16, 2001 order.

The Court erred when it denied Petitioner's Motion to Vacate and/or Modify the Agreement arising out of 97-BG-114SP1038, on the basis that the Agreement was coerced. See Petitioner's Motion to Vacate and/or Modify the Agreement. See Order M (Sept. 26, 1997 and Order N, Nov. 26, 1996. See Order dated Oct. 17, 1997

The Court erred and abused its discretion when it awarded attorney's fees in the amount of $59,000 to Stuart Pierson and his law firm.. these disguised attorneys fees amounts to a smokescreen to disguise the penalty that DCCA assessed against Petitioner, disguised by DCCA, for purposes of depriving the Petitioner of a trial by jury when the amount exceeds $1000.00. See Dr. Simon Banks' Motion to Stay the Order granting Attorneys' fees. See Dr. Simon Banks' Ethics Complaint against Stuart Pierson. A135

The court erred when it failed to vacate the injunction. See Respondent's Reply to Petitioner's Opposition to Respondent Motion to Vacate the Injunction. A130-131

The Court erred when it denied the Petitioner the judicial estoppel effect that Petitioner was entitled pursuant to *Brookens v. District of Columbia Court of Appeals,* 538 A.2d 1120 (D.C. App. 1988), and *Sperry v. State of Florida,* 373 U.S. 379 [1963], Order M-198-96, and *Simon v. Bellinger,* 643 F.2d 774 (1980), which shows that Rule 49 does not constitutionally cover practice before administrative agencies.

The court abused its discretion and acted arbitrary when it issued Order dated May 9, 1996, in 96-BG-114, finding Petitioner guilty of Counts One, Two, Three, Four and Six, because the weight of the evidence was against the decision, and because the judge was bias and the evidence was tainted, and the decision was the result of the court's denial of Petitioner's Motion and demand for trial by jury. See A128-A129. See Petitioner's Motion to Recuse Judge Levie. See Respondent's Exhibits and the government's exhibits., Deborah A. Gudger Receipt for Consultant Services, Dec. 4, 1995, May 20, 1995; See A131-132.

The Court abused its discretion and acted arbitrarily when it issued Order L, August 28, 1997, when it accepted the consent agreement, without inquiring of Petitioner [Banks] whether the agreement was coerced and acquired of Petitioner's own free will, and because the agreement was the product of coercion and continuing violation of appellant's rights.

Assignment of Errors Re Order 18, 92-BG-652, 97-SP-1761 & 97-SP-1762, permitting the subornation of perjury and perjury.

With respect to the testimony of Carl McAllister, set forth at 65-76 at 65-76 and specifically at 71-72 of the Transcript of the May 8, 1996 hearing, the court participated in a scenario to afford

Stuart Pierson, Chair of CUPL to submit, switch and retrieve, documentary evidence that showed that McAllister was committing blatant perjury, when he stated that the Petitioner informed him that he would represent him before a jury in a court. The evidence submitted and retrieved was a disclosure statement, receipt for funds and the agreement, where McAllister acknowledged that he was informed that Petitioner was not licensed to practice law in the District of Columbia or in any other jurisdiction and that this statement was written on each receipt. At the time of this testimony, Stuart Pierson an officer of the Court, a judicial employee, had a duty, as well as Judge Levie, to retain the exhibits that Judge Levie ordered Stuart Pierson to withdraw, because it showed that McAllister was committing perjury in open court. See Transcript of the May 8, 1994 proceeding at 71-72. To further prejudice Petitioner, the Court allowed Stuart Pierson to be the custodian of the exhibits filed at the May 8, 1994 proceedings and the clerk of the Court of Appeals has been unable to provide the Petitioner with a copy of any of the exhibits because they all have been retained by Pierson.

McAllister stated in his testimony on May 8, 1994 that when he called Respondent's office he was informed by the person who answered the telephone that Respondent was in court. *Id. At 73-74 Tr. Of May 8, 1994.* The court used this testimony, arbitrarily and abusively, as an underpinning for enjoining the Petitioner and Petitioner's staff from stating that the Petitioner is in court. At 49 of Order 18¶4.

At 18 of Order 18, the court, abusively, arbitrarily, credited the testimony of Carl McAllister as a credible witness notwithstanding outright and blatant perjury committed by Carl McAllister during his testimony at 65 through 76 of the May 8, 1994 Tr. Of Proceedings. See 68, 71-72 of Tr. Of May 8, 1994. Stuart Pierson, CUPL, submitted the disclosure statement and receipt to the court, and the court then ordered Stuart Pierson to withdraw the submission. [both judicial officers violated their oath of office at this point]. This scheme engaged in by the Court and the Court's chief attorney, Stuart Pierson, operated to deprive the Petitioner of exculpatory evidence, that McAllister committed perjury, and that McAllister executed a receipt, and an agreement acknowledging that the Petitioner informed him that Petitioner is not licensed to practice law, that the services Petitioner provide is

the services of a consultant. The receipt submitted to McAllister provides the acknowledgement.[13]

At 9 of Order 18, footnote 12, the court abused its discretion and acted arbitrarily when it punished the Petitioner for stating in advertisements that he is a specialist in employment law (Id Exh. 25; May 8, 34, 43¶6). And for stating to a client that he was currently handling a court case in Detroit. (Id. At 118) of transcript. "Respondent told her that they would initially take her case to Human Rights Commission, and if unsuccessful, they would go to court. (Id. At 119) of the transcript of proceedings. This testimony regarding going to court is contradicted by overwhelming documentary evidence to the contrary. The witness executed acknowledgments and disclaimers acknowledging that the Petitioner informed her that Petitioner is not licensed to practice law.

The Court further abused its discretion at 32 of Order 18, when and where it provides [as an excuse for returning evidence of perjury to Stuart Pierson], a disclaimer.[14]

However, it was only during the direct examination testimony of Carl McAllister, being conducted by another attorney, Mr. Fitch, did the court interject, and request that Stuart Pierson take over so that the court could alert Pierson of a problem that Pierson might want to avoid concerning perjurious testimony of Carl McAllister. Pierson, responded, after the following exchange between attorney Fitch who had been conducting the direct examination of McAllister, when the court asked Pierson to step in. Pierson, responded, after the following between attorney Fitch and, after approaching the bench, (the Court and Pierson) as follows: (at 65 of Tr. Of May 9, 1994 proceedings:

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[13] "I, Carl McAllister, acknowledge that I have been advised that Simon Banks/Job Protectors, will not provide any representation service before any court and that all consultant services will be limited to administrative agencies of the United States and the various States of the United States.

[14] The Court: "Respondent further claims Mr. McAllister testimony should be stricken because the Committee offered documents which were not served upon Respondent, as required by this Court's Orders of October 27, 1993 and November 30, 1993. This court, however, did not admit those documents into evidence because the Committee did not comply with those orders. (May 9, Tr. At 72). Moreover, Mr. McAllister made no reference in his testimony to the contents of those documents. The documents, therefore, provide no basis for striking Mr. McAllister's testimony."

(By Mr. Fitch of McAllister)

Q Do you recognize what Exhibit No. 80 – what Exhibit CX82 is?

THE COURT: [pursuant to the Pierson-Levie judicial conspiracy] Just a second, please, Mr. Fitch.

Mr. Pierson, can we step back in time for a moment, in terms of the ground rules that were developed back in October and November of last year? I thought my recollection – well, my recollection was that you were to supply witnesses and documents.

MR. PIERSON: Yes, your Honor. What is occurring here, Your Honor, is that there have been subsequent complaining witnesses who have come to us, and as soon as we have received their identify, we of course, let Mr. Banks know. Mr. McAllister was on the list that we provided before. These documents, which Mr. Fitch has, we were not able to get from Mr. McAllister until recently. We feel it is not necessary to his testimony that we present the documents. However, since we received them, we thought it only appropriate that we notice the documents when we received them, and then we would give Mr. Banks an opportunity to see them. If the Court would rule that because these were not transmitted at a prior time, we cannot introduce them. We can go ahead with the vi'va vo'ce evidence anyway (*?)

THE COURT: I'm not going to admit these because the ground rules; he's paying a consequence by way of sanctions for not complying with them. Therefore, I think it only appropriate that I hold the Committee to the same ground rules to the letter. So, I will not consider these.

MR. FITCH: Why don't I retrieve from you, Mr. McAllister the exhibit which I handed to you."

To further prejudice the Petitioner's right to a fair trial, the Court then turned all of the exhibits over to Stuart Pierson rather than the clerk of the Court, as the custodian of the records. And when the Petitioner complained and filed a motion for the production of these records, the motion failed on death ears. Mr. Brooks of the D.C. Court of Appeals Office, informed the Court and the

Petitioner that he did not have these exhibits. Judge Levie's secretary and law clerk stated that Mr. Pierson had possession of these exhibits. All exhibits of the May 8, 1994 proceedings.

At 10 Order 18, the Court abused its discretion and acted arbitrarily when it punished the Petitioner for displaying his law degree, that Sonya Hall characterized as a license. Punishing the Petitioner for stating he provides nationwide service and enjoining the Petitioner for stating he provides nationwide service. **See** Retainer agreement, Exhibits, privacy release, dated April 13, 1990 (Id. Exh. 22), receipt dated April 13, 1990, Exh. 23, Notice of Representation, Exh. 24. Sonja Hall signed a disclosure statement and receipt acknowledging that she was made aware that Petitioner is not an attorney, and is not licensed to practice law.

At 11 of Order 18, the Court abused its discretion and acted arbitrarily when it punished the Petitioner for having law books and an environment that looked like a law office. "Ms. Jane Harris . (100-101). Ms. Harris asked respondent to help her concern a problem with promotion at a **federal agency.** Harris also signed acknowledgements acknowledging that Petitioner informed her that he is not licensed to practice law.

At 12 Order 18, the Court abused its discretion and acted arbitrarily when it credited the testimony of LaVerne King (May 9, Tr. At 107) who testified that Respondent never told her he was not licensed to practice law, notwithstanding her signing, a disclosure statement containing her acknowledgement that she was made aware that the Petitioner is not an attorney, and having signed an agreement that said the same, and that LaVerne King signed a retainer agreement that referred to Petitioner's service as "consultant services."

At 13 Order 18, the court abused its discretion and acted arbitrarily when it credited and punished the Petitioner for hanging degrees on Petitioner's wall. "King stated that Respondent hung degrees and other things on his office wall so that he "looked like he was really a lawyer." (Id at 96 of May 9, 1994 Tr.)

In connection the Court's revocation of the Petitioner's probation, based upon the testimony of Ronda Reid, the Court acted arbitrarily and abused its discretion when it determined that the testimony of Rhonda Reid, a college graduate and a graduate of the Police Academy, was credible, when she testified that she did not understand the disclosure statement, the receipts, the retainer

agreement, and the acknowledgments she signed which provided that the Petitioner is not an attorney, is not licensed to practice law. **See A107-112.**

Petitioner pray this Honorable Court reverse the DCCA and remand the case for a ruling upon the constitutionality of Rule 49 per se and as it has been enforced against Petitioner. Petitioner pray that this Court hold that Petitioner is entitled to use the title former Administrative Law Judge with respect to Petitioner's former employment as Hearing Examiner and Chief Hearing Examiner.

Respectfully submitted,

Dr. Simon Banks, J.D., pro se